REMARKS/ARGUMENTS

Claim Amendments

Applicant has amended claims 1 and 3 without prejudice by replacing "consisting essentially of" with "consisting".

Withdrawn claim 50 was amended to remove the multiple dependency.

New claims 62 and 63 were added for composition claims similar to claims 15 and 16, but dependent from claims 10 and 11.

The withdrawn claims have been retained without prejudice to preserve the right to rejoinder.

It is submitted that the amendments find support in the application and claims as originally filed.

Election/Restrictions

The Examiner has made her decision regarding restriction final.

However, the Examiner has stated that the basis of the decision was that "the technical feature linking Groups I-IV was disclosed in the prior art" and as such is contingent on the non-allowability of the linking claims.

As applicant believes that the linking claims as currently amended are allowable, Applicant has deferred its petition until the resolution of the issue of the patentability of the linking claims. (See 37 CFR 1.144 and MPEP § 818.03(c))

35 USC§102(b)

The Examiner rejected claims 1-3, 9-11 and 13-16 as being anticipated by US2002/0119926 A1 to Fraser. Applicant traverses the rejection as follows.

The basis of the Examiner's rejection appears to be that the phrase "consisting essentially of" as in claims 1 and 3 (from which the other claims depend) would not include the tripeptides but could also include the hexapeptides of Fraser which comprise said sequences. Applicant has amended claims 1

and 3 from which the other claims depend by replacing "consisting essentially of" with "consisting". This amendment is made without prejudice.

With respect to the Examiner's comments regarding claims 9 – 11 and the assertion that US2002/0119926 A1 discloses the peptides of the present invention, Applicant cannot agree. Paragraph [0097] merely states:

> *Antifibrillogenic agents of the invention may also be derived from the peptides by substitution of one or more residues in the naturally occurring sequence. In another embodiment, the agents are peptidomimetics of the peptides. The agents may be modified by removing or inserting one or more amino acid residues, or by substituting one or more amino acid residues with other amino acids or non-amino acid fragments, such as thïenylalanine, cyclohexylalanine and phenylglycine.*

It is a general statement. In fact, tripeptides were not disclosed in the prior art. Nor were any suggestions as to how the hexapeptides could be truncated or substituted or which tripeptides or fragments would show the desired activity or enhanced activity. As evidenced by the present application at paragraph [130] slight changes can have an effect on activity. In fact at paragraph [0141], it states that there are differences in activity between truncated peptides, the tripeptides showing surprisingly great activity than the tetra or penta peptide. There is no teaching in the prior art that disclosed the findings with the peptides of the present invention.

As such, it is believed that this response and amendments traverses the Examiner's rejections to the claims and the rejections are requested to be withdrawn.

The Commissioner is hereby authorized to charge any fee which may be required to fully reply and enter this response, including any claim fees or extensions of time fees, or otherwise to keep the application in good standing, to our firm's Deposit Account No. 15-0633.

Should the Examiner like to discuss the matter, she is kindly requested to contact Anita Nador at 416-601-7530 at her convenience.

Respectfully submitted,
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Dated: March 15, 2010 By: _____

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